

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PROTAMEEN CHEMICALS, INC. : Civil No. 05-3383 (FSH)

Plaintiff, :

v. :

DIEGO CHINCHILLA :

Defendant. :

ORDER

Date: February 26, 2007

This matter having come before the Court upon Plaintiff's October 6, 2006 Motion for Summary Judgment and the parties correspondence to the Court dated February 23, 2007 and February 26, 2007; and

it appearing that, pursuant to Fed. R. Civ. P. 56(c), a motion for summary judgment will be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law, see Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247 (1986) and Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); and

it appearing that "summary judgment may be granted only if there exists no genuine issue of material fact that would permit a reasonable jury to find for the nonmoving party," Miller v. Indiana Hosp., 843 F.2d 139, 143 (3d Cir. 1988); and

it appearing that Plaintiff Protameen argues that the Court should grant summary

judgment on all of its claims, including claims for duty of loyalty, tortious interference, fraud and misrepresentation, unjust enrichment, breach of contract, and good faith and fair dealing; and it appearing on the face of the parties' submissions, as well as the September 8, 2006 Final Pre-Trial Order, that they dispute a significant number of material facts with respect to all of the claims at issue in this case, making the complaint unsuitable for summary judgment;

IT IS on this 26th day of February, 2007,

ORDERED that the Plaintiff's Motion for Summary Judgment is **DENIED**; and it is

ORDERED that, pursuant to the parties correspondence dated February 23, 2007 and

February 26, 2007, the settlement conference scheduled for February 28, 2007 at 1:30 pm is

CANCELLED; and it is

ORDERED that this case shall proceed forthwith to Court-annexed arbitration.

/s/ Faith S. Hochberg
Hon. Faith S. Hochberg, U.S.D.J.